

**Zoning Committee Meeting
Tuesday, June 30, 2009 @ 6:30 PM**

ITEM #1

Application for a Zone Change from Bus A to Res C for 11,203 sq. ft. of property located at 391 Hampden St. for the purpose of constructing two new townhouse style duplex structures. Applicant: James Kumiega, 55 Van Horn St., Chicopee, MA 01013.

ITEM #2

Application for a Special Permit under section 275-54 B(2) for the purpose of waiving Res C requirements for housing development located at 391 Hampden St. Applicant: James Kumiega, 55 Van Horn St., Chicopee, MA 01013.

ITEM #3

Application for a Zone Change from Industrial to Res C for 2.5 acres of property located at corner of Grove and Oak St for the purpose of building duplex-triplex. Applicant: Yves Demers, 8855 104th Ave., Vero Beach, FL 32967.

ITEM #4

Ordinance Amendment add to City Code Chapter 275-58C, Business A, Special Permits: (10) Nursing Homes, Assisted Living, Over 55 Age-Restricted Housing, dimensional, screening, parking and project evaluation criteria. Full text available in the Office of the City Council. Petitioner: Councilor Jean J. Croteau, Jr., 274 Front St., Chicopee, MA 01013.

ITEM #5

Ordinance Amendment add to City Code Chapter 275-59C, Business B, Special Permits: (10) Nursing Homes, Assisted Living, Over 55 Age-Restricted Housing, dimensional, screening, parking and project evaluation criteria. Full text available in the Office of the City Council. Petitioner: Councilor Jean J. Croteau, Jr., 274 Front St., Chicopee, MA 01013.

TABLED – Letter received from applicant waiving 90 day decision requirement.

ITEM #6

Application for a Zone Change from Bus B to Rec C for 1.7 acres of property located at 133 Leona Avenue (lot) for the purpose of constructing condos. Applicant: Vitaliy Dzhenzherukha, 32 Westview Ln, Feeding Hills, MA 01030.

ITEM #7

Application for a Special Permit under section 275-54 for the purpose of waiving the frontage requirement from 150 ft. to 72 ft., side yard setbacks from 20 ft. to 10 ft., rear yard setback from 20 ft. to 14-15 ft. (depending on Building) located at 133 Leona Avenue. Applicant: Vitaliy Dzhenzherukha, 32 Westview Ln, Feeding Hills, MA 01030.

ITEM #8

Minutes



CHICOPEE CITY COUNCIL
ZONING COMMITTEE

ACCEPTED 7-28-09

ZONING COMMITTEE MEMBERS

Jean Croteau, Chairman
Dino A. Brunetti, Vice-Chairman
James Tillotson
George Moreau
John Vieau
Fred Krampits
Donald Demers

MINUTES
June 30, 2009

The following are the minutes of a public hearing held Tuesday, June 30, 2009 at 6:30 PM in the City Council Chambers, Fourth Floor, City Hall Annex, 274 Front Street, Chicopee, MA 01013.

Members Present Croteau, Brunetti, Moreau, Krampits, Tillotson, Demers, Vieau,

Also Present Dan Garvey (City Solicitor), Kate Brown (Planning Director), Councilor Robert J. Zygarowski, Councilor William Zaskey, Councilor Brooks, Councilor Swider, Councilor McLellan, Councilor Belair

The meeting was called to order at 6:30 PM

ITEM #1

Application for a Zone Change from Business A to Residential C for 11,203 square feet of property located at 391 Hampden Street for the purpose of constructing two new town house style duplex structures.

Applicant James Kumiega
55 Van Horn Street
Chicopee, MA 01013

Mr. Kumiega and his attorney Thomas Murphy were present at the meeting. Attorney Murphy stated that Mr. Kumiega is requesting the zone change for the purpose of developing and building two duplex homes. He stated that most of the homes in the area are multifamily so this request would conform to the majority of homes in the area. A special permit is also needed for this project. A petition was presented by Attorney Murphy from some of the abutters stating that they are in favor of this project.

Councilor Tillotson asked whether the homes will be for sale or rentals. Mr. Kumiega replied that they will be rentals.

PUBLIC INPUT

Craig Thompson, 367 Hampden Street, stated that he is in favor of this zone change. He stated that Mr. Kumiega maintains his properties and would not be an absentee landlord.

Karen Piatek, 368 Hampden Street, stated that she is in favor of this project. She stated that it's a good idea to fill the empty lot with residential homes and not a business.

Ken Wandas, 1083 Granby Road, owns 552 Springfield Street. He is opposed to the size of the proposed building. Would like to see a smaller building.

Walter Wandas, 69 Cyman Drive, owns 552 Springfield Street. He is also opposed to the size of the proposed duplexes.

Therese Bontakis, 556 Springfield Street, stated that she is opposed to the size.

Attorney Murphy stated that the proposed size of the duplexes is actually smaller than the existing structures in the area.

Councilor Zaskey stated that he is in favor of the zone change request. He would not like to see a business operate on this property.

The following recommendation was read from the Planning Department:

The Planning Board appreciates the many improvements Mr. Kumiega has made in this neighborhood and noted his projects elsewhere in the city are nicely done and well maintained. However the Board recommends against the zone change. State law states that zoning districts shall be uniform. This law is intended to discourage "spot zoning", however the law is silent on dimensions. The following is the three part test the courts employ to determine what constitutes a spot zone.

1. Is it a spot zone? (State law specifies that zoning districts shall be uniform,)

Answer Yes. There are not other Residential C districts near this property.

2. Are there other two family residential uses in the immediate vicinity? (A spot zone on the map may be acceptable if the use is represented in the neighborhood.)

Answer Yes. The majority of the houses in the immediate neighborhood are two and three families.

3. Who Benefits? (A spot zone on the map may be acceptable if the use has a public benefit.)

Answer In our opinion the petitioner is the ultimate benefactor since he collects rent. Property values will be increased but at the expense of the neighborhood i.e. increases density, traffic, burden on infrastructure, etc. The property is appropriately sized for one duplex.

Kate Brown was asked if she recommends the zone change. She stated that she would rather see the property zoned Residential than Business.

Motion made by Councilor Moreau to approve.

Committee vote 7 - 0 favorable.

ITEM #2

Application for a Special Permit under section 275-54 B (2) for the purpose of waiving Residential C requirements for housing development located at 391 Hampden Street.

Applicant James Kumiega
55 Van Horn Street
Chicopee, MA 01013

Mr. Kumiega and his attorney Thomas Murphy were present at the meeting.

Kate informed the committee that the petitioner is asking for relief of the multifamily 150' frontage requirements to 85' or 126'. Depth also needs to be waived from 200' to 86' or 126'. The petitioner also needs a waiver of side and rear setbacks from the 20' requirement to 12' or 8', area of 30,000 SF to 11,203 SF and density which demands a minimum of 14,000 SF. Waiver of all these requirements will accommodate 4 units or 2 duplex buildings on an 11,203 SF lot.

PUBLIC INPUT

Ken Wandas, 1083 Granby Road, owns 552 Springfield Street. He is opposed to the size of the proposed building. Would like to see a smaller building.

Walter Wandas, 69 Cyman Drive, stated that the lots will be too small.

Councilor Zaskey stated that he is in favor of this request.

RESTRICTIONS

Permit to run with the land

Building & unit number are as section 275-65 (B) 2 allows

Plan and document are as listed by the planning board and become part of this special permit attached hereto and incorporated herein

Maximum height of 26' from grade

Motion made by Councilor Moreau to approve.

Committee vote 5 favorable 2 unfavorable. Voting in favor: Demers, Moreau, Vieau, Krampits, Croteau. Voting unfavorable: Brunetti, Tillotson

ITEM #3

Application for a Zone Change from Industrial to Residential C for 2.5 acres of property located at the corner of Grove and Oak Street for the purpose of building duplex - triplex.

Applicant Yves Demers
8855 104th Avenue
Vero Beach, FL 32967

Applicant and Eric Kaiser were present at the meeting.

Motion made by Councilor Vieau to approve.

Committee vote 7 - 0 favorable.

ITEM #4

BE IT ORDAINED by the City Council that the Code of the City of Chicopee for the Year 1991, as amended, be and hereby is further amended as follows:

Business A - Add to Chapter 275-58 C Special Permits to following (9) Adult Uses

Business A -- Add to Chapter 275-58 C Special Permits to follow (9) Adult Uses

(10) Nursing Homes, Assisted Living, Over 55 Age-Restricted Housing

In order to provide residential alternatives for the aged, chronically ill, and disabled, the City Council may consider special permits for nursing homes, assisted living and over 55 age restricted housing when, in addition to the special permit evaluation criteria cited in 275-9 (Special Permits):

(a) Site conditions and access constraints could impede long term successful business or industrial use of subject property.

(b) Subject property borders residential districts and its residential use would complement the character and function of the existing surrounding neighborhood.

(c) Subject property borders or includes unique natural features, open space, or historic resources that would be better preserved and enjoyed by the public over the long term through residential rather than business or industrial uses.

(d) Proposed project complies with the following requirements:

	Nursing Home	Assisted Living	Over 55
Frontage	50'	50'	50'
Area -- minimum	2 acres	2 acres	2 acres
Depth	200'	200'	200'
Front, side and rear yard setback from property line for principle and accessory buildings	50'	50'	50'
Front, side and rear yard setback from interior access drive for principle buildings	25' excepting loading docks and passenger pick up	25' excepting loading docks and passenger pick up	25' excepting loading docks and passenger pick up
Parking See also Chapter 275-40 (Parking)	One (1) space per three (3) beds, and one (1) space per four (4) employees on the largest shift, plus adequate parking for visitors and vehicles associated with facility	One (1) space per 3 units, and one (1) space per four (4) employees on the largest shift, plus adequate parking for visitors and vehicles associated with facility	One (1) space per studio and one bedroom unit, two (2) spaces per two (2) bedrooms or more, and one (1) space per four (4) employees on the largest shift, plus adequate parking for visitors and vehicles associated with facility.
Parking lot setbacks	25' from property side, rear and street lot line.	25' from property side, rear and street lot line.	25' from property side, rear and street lot line.
Loading docks	Design for minimum exposure to units and abutting residential property for noise control	Design for minimum exposure to units and abutting residential property for noise control	Design for minimum exposure to units and abutting residential property for noise control
Trash receptacles/dumpsters	Design for minimum exposure to units and abutting residential property for odor and noise control	Design for minimum exposure to units and abutting residential property for odor and noise control	Design for minimum exposure to units and abutting residential property for odor and noise control
Height - Principle Buildings	3 stories or 40'	3 stories or 40'	3 stories or 40'
Height - accessory buildings	1 story	1 story	1 story
Density - total buildout	No limit	No limit	No limit
Density - units per building	No limit	No limit	No limit
Open Space	10% usable	20% usable	25% usable
Principle building spacing	25' minimum between principle buildings	25' minimum between principle buildings	25' minimum between principle buildings
Signage	One sign at access drive	One sign at access drive	One sign at access drive

See also 275-50 (signs)	and public street intersection. 30 SF max	and public street intersection. 30 SF max	and public street intersection. 30 SF max
Screening	Dumpster pads and loading areas shall be screened from public view and view of residents. Parking shall be screened from public view. Minimum 4 foot fence or 4' evergreens at time of planting.	Dumpster pads and loading areas shall be screened from public view and view of residents. Parking shall be screened from public view. Minimum 4 foot fence or 4' evergreens at time of planting.	Dumpster pads and loading areas shall be screened from public view and view of residents. Parking shall be screened from public view. Minimum 4 foot fence or 4' evergreens at time of planting.
Lightning	All lighting fixtures shall be integrated into the architectural style of the development. All exterior structural and site lighting (not including access road lighting) shall be retained on site and shall not create a nuisance to abutting properties and streets. All exterior light sources shall be appropriately shielded from off-premise viewing. Access road lighting shall be designed to prevent nuisance to abutting properties by reason of light and glare.	All lighting fixtures shall be integrated into the architectural style of the development. All exterior structural and site lighting (not including access road lighting) shall be retained on site and shall not create a nuisance to abutting properties and streets. All exterior light sources shall be appropriately shielded from off-premise viewing. Access road lighting shall be designed to prevent nuisance to abutting properties by reason of light and glare.	All lighting fixtures shall be integrated into the architectural style of the development. All exterior structural and site lighting (not including access road lighting) shall be retained on site and shall not create a nuisance to abutting properties and streets. All exterior light sources shall be appropriately shielded from off-premise viewing. Access road lighting shall be designed to prevent nuisance to abutting properties by reason of light and glare.
Mechanical Units	Locate to minimize disturbance to abutting or nearby residential uses	Locate to minimize disturbance to abutting or nearby residential uses	Locate to minimize disturbance to abutting or nearby residential uses
Site Plan Review	See Chapter 275-6	See Chapter 275-6	See Chapter 275-6

Add to 275-58 D. Dimensional requirements for uses other than nursing homes, assisted living and over 55 age restricted housing shall be as follows:

Motion made by Councilor Moreau to approve.
Committee vote 7 - 0 favorable.

ITEM #5

BE IT ORDAINED by the City Council that the Code of the City of Chicopee for the Year 1991, as amended, be and hereby is further amended as follows:

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Add to 275-59 D. Dimensional requirements for uses other than nursing homes, assisted living and over 55 age restricted housing shall be as follows:

Motion made by Councilor Moreau to approve.
Committee vote 7 - 0 favorable.

ITEM #6
Removed from the table.

Application for a Zone Change from Bus B to Res C for 1.7 acres of property located at 133 Leona Avenue (lot) for the purpose of constructing condos.

Applicant Vitaly Dzhenzherukha
 32 Westview Lane
 Feeding Hills, MA 01030

Application for a Special Permit under section 275-54 for the purpose of waiving the frontage requirement from 150ft. to 72 ft., side yard setbacks from 20 ft. to 10 ft., rear yard setback from 20 ft. to 14-15 ft. (depending on Building) located at 133 Leona Avenue.

Applicant Vitaly Dzhenzherukha
 32 Westview Lane
 Feeding Hills, MA 01030

Letter dated 6-1-09 read from applicant:

"I, Vitaly Dzhenzherukha of 32 Westview Lane, Agawam, MA 01030 ask that a hearing request for a zone change and a special permit on the 133 Leona Avenue parcel be moved to a further date. We are currently still working with our engineers on the details and specifics for the development for this site and therefore need more time. I also grant the board permission to extend the time that they have to make their decision on both the zone change and the special permit for this property. (extend additional 90 days).

*Signed
Vitaly Dzhenzherukha*

Motion made to extend time limit to September 1, 2009. Motion passed.

ITEM #7

Minutes - May 26, 2009

Motion made to approve. Motion passed.

Meeting adjourned at 7:27 PM.